

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 15-CR-30016-SMY
)	
)	
BYRON JOSHUA HOLTON)	
)	
Defendant.)	

ORDER

YANDLE, District Judge:

Pending before the Court is Defendant Byron Joshua Holton’s Motion to Sever (Doc. 143). The Government does not oppose the motion. For the following reasons, the motion is **GRANTED**.

Federal Rule of Criminal Procedure 8(b) allows the joinder of two or more defendants in a single trial. There is a preference in the federal system for joint trials of defendants who are indicted together. *Zafiro v. United States*, 506 U.S. 534, 537, 113 S.Ct. 933, 122 L.Ed.2d 317 (1993). Joint trials promote efficiency and go far to prevent the scandal and inequity of inconsistent verdicts among co-defendants. *Id.* However, Rule 14(a) of the Federal Rules of Criminal Procedure provides that a court may sever co-defendants’ trials if a defendant or the government is prejudiced by such a joinder. Working together, “Rules 8(b) and 14 are designed ‘to promote economy and efficiency and to avoid a multiplicity of trials, [so long as] these objectives can be achieved without substantial prejudice to the right of the defendants to a fair trial.’ ” *Id.* at 540 (quoting *Bruton v. United States*, 391 U.S. 123, 131 n. 6, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968) (internal quotations omitted)).

A court should grant severance under Rule 14(a) only if “there is a serious risk that a joint trial would compromise a specific trial right of one of the defendants, or prevent the jury from making a reliable judgment about guilt or innocence.” *Id.* at 539. Rule 14(a) leaves the

determination of risk of prejudice from a joint trial and any remedy that may be necessary to the sound discretion of the district court. *Id.* Serious risks that may warrant severance occur, for example, where the government introduces a co-defendant's statement that inculcates the defendant but where the co-defendant does not testify and is therefore unavailable for the defendant to exercise his confrontation clause rights by cross-examining him. *See Lilly v. Virginia*, 527 U.S. 116, 119 S.Ct. 1887, 144 L.Ed.2d 117 (1999); *Bruton v. United States*, 391 U.S. 123, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968).

Here, the Superseding Indictment asserts allegations against multiple charged co-defendants relating to several alleged armed robberies. Defendant Holton indicates that, based on the discovery tendered in this matter, several of the charged co-defendants have made statements which may be used at trial and which implicate themselves and others charged in this case. The Court finds that a joint trial under these circumstances creates a serious risk of prejudice to Defendant Holton's rights. Accordingly, the Court **GRANTS** Defendant Holton's motion to sever.

Pursuant to 18 U.S.C. § 3161(h)(1)(D) and (H), the Court finds that the period from October 7, 2015, the date Defendant filed the Motion to Sever, up to and including the date of this order, allows a reasonable period for prompt resolution of the motion and is excludable under the Speedy Trial Act. *See Henderson v. United States*, 476 U.S. 321, 329–31, 106 S.Ct. 1871, 90 L.Ed.2d 299 (1986).

IT IS SO ORDERED.

DATED: October 22, 2015

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge